

## **Assembly Bill No. 2581**

### **CHAPTER 737**

An act to amend Sections 3203, 3205.2, 3206, 3208.1, 3226, 3236.5, 3237, 3352, and 3744 of, and to add Section 3219.5 to, the Public Resources Code, relating to oil and gas conservation, and making an appropriation therefor.

[Approved by Governor September 25, 2000. Filed  
with Secretary of State September 27, 2000.]

#### **LEGISLATIVE COUNSEL'S DIGEST**

AB 2581, Maldonado. Oil and gas conservation.

(1) Existing law generally regulates the drilling and operation of wells. Existing law requires the owner or operator of any well, before commencing the work of drilling the well, to file with the State Oil and Gas Supervisor or the district deputy a written notice of intention to commence drilling, and prohibits the commencement of drilling until approval is given by the supervisor or the district deputy.

This bill would apply that provision solely to the operator of the well. This bill would also permit the supervisor to deny approval if an operator has failed to pay a civil penalty or remedy a violation it is required to remedy. The bill would require the Department of Conservation, in consultation with representatives of the oil industry and insurers, to report to the Governor and the Legislature on or before July 1, 2001, on options for insuring the existence of blowout insurance for persons engaged in drilling or redrilling exploratory oil and gas wells in areas where abnormally high or unknown subsurface gradients exist.

(2) Existing law requires any operator of an oil or gas well, or a class II commercial wastewater disposal well, who engages in the drilling, redrilling, deepening, or in any operation permanently altering the casing, of any well, to file with the State Oil and Gas Supervisor an indemnity bond, but permits the operator, with the approval of the supervisor, to make certain deposits in lieu of the bond.

This bill would require as one of several alternatives that the operator of a class II commercial wastewater disposal well not covered by an indemnity bond pay the supervisor a fee. Under existing law, all fees received by the supervisor under these provisions are deposited in the Hazardous and Idle-Deserted Well Abatement Fund, a continuously appropriated fund. By providing for an increase in the fees in a continuously appropriated fund, the bill would make an appropriation.

(3) Existing law permits the supervisor or district deputy to order the reabandonment of any previously abandoned well if the supervisor or the district deputy has reason to question the integrity of the previous abandonment.

This bill would prescribe the circumstances in which the operator responsible for plugging and abandoning a deserted well is not responsible for the reabandonment of the well.

(4) Existing law makes any person who violates the provisions governing the drilling and operation of wells subject to a civil penalty.

This bill would permit the supervisor to seek a court order directing that production from the well operations be discontinued until the violation is remedied and the civil penalty has been paid. This bill would also require the supervisor to consider, among other things, when determining the amount of the civil penalty, the pervasiveness of the violation.

(5) Existing law permits the supervisor or district deputy to order the plugging and abandonment of any deserted well, and specifies the circumstances in which a rebuttable presumption of desertion arises.

This bill would additionally provide that the rebuttable presumption of desertion arises if an operator has failed to maintain the access road to a well site passable to oilfield and emergency vehicles.

(6) Existing law permits the supervisor to postpone for a period not to exceed 10 days a hearing on an appeal from an order directing that an unreasonable waste of gas be discontinued or refrained from to the extent stated in the order.

This bill would permit the supervisor to postpone that hearing for a period not to exceed 30 days.

Appropriation: yes.

*The people of the State of California do enact as follows:*

SECTION 1. Section 3203 of the Public Resources Code is amended to read:

3203. (a) The operator of any well, before commencing the work of drilling the well, shall file with the supervisor or the district deputy a written notice of intention to commence drilling. Drilling shall not commence until approval is given by the supervisor or the district deputy. If the supervisor or the district deputy fails to give the operator written response to the notice within 10 working days from the date of receipt, that failure shall be considered as an approval of the notice and the notice, for the purposes and intents of this chapter, shall be deemed a written report of the supervisor. If operations have not commenced within one year of receipt of the notice, the notice shall be deemed canceled. The notice shall contain the pertinent data

the supervisor requires on printed forms supplied by the division or on other forms acceptable to the supervisor. The supervisor may require other pertinent information to supplement the notice.

(b) After the completion of any well, this section also applies as far as may be, to the deepening or redrilling of the well, any operation involving the plugging of the well, or any operations permanently altering in any manner the casing of the well. The number or designation of any well, and the number or designation specified for any well in a notice filed as required by this section, shall not be changed without first obtaining a written consent of the supervisor.

(c) If an operator has failed to comply with an order of the supervisor, the supervisor may deny approval of proposed well operations until the operator brings its existing well operations into compliance with the order. If an operator has failed to pay a civil penalty, remedy a violation that it is required to remedy to the satisfaction of the supervisor pursuant to an order issued under Section 3236.5, or to pay any charges assessed under Article 7 (commencing with Section 3400), the supervisor may deny approval to the operator's proposed well operations until the operator pays the civil penalty, remedies the violation to the satisfaction of the supervisor, or pays the charges assessed under Article 7 (commencing with Section 3400).

SEC. 2. Section 3205.2 of the Public Resources Code is amended to read:

3205.2. (a) Notwithstanding Section 3204, any person who engages in the operation of a class II commercial wastewater disposal well, as defined in subdivision (d), shall file an indemnity bond with the supervisor for fifty thousand dollars (\$50,000) for each well so used. The bond shall cover all operations of drilling, redrilling, deepening, altering casing, maintaining, or abandoning the well and attendant facilities. The bond shall be executed by the person as the principal, and by an authorized surety company as the surety, and, except for differences in the amount, shall be in substantially the same language and upon the same conditions as provided in Section 3204.

(b) A blanket bond submitted under subdivision (a) or (c) of Section 3205 may be used in lieu of the bond required in subdivision (a), except that the termination and cancellation shall be in accordance with subdivision (c) of this section.

(c) Notwithstanding Section 3207, any bond issued in compliance with this section may be terminated and canceled and the surety relieved of all obligations thereunder when the well is properly abandoned or another valid bond has been substituted therefor.

(d) A class II commercial wastewater disposal well is a well that is used to dispose of oilfield wastewater for a fee and that is regulated by the division pursuant to this chapter and Subpart F (commencing

with Section 147.250) of Part 147 of Title 40 of the Code of Federal Regulations.

SEC. 3. Section 3206 of the Public Resources Code is amended to read:

3206. (a) The operator of any idle well not covered by an indemnity bond provided under Section 3204, subdivision (c) of Section 3205, or subdivision (a) of Section 3205.2 shall do one of the following:

(1) File with the supervisor an annual fee for each idle well equal to the sum of the following amounts:

(A) One hundred dollars (\$100) for each idle well that has been idle for less than 10 years.

(B) Two hundred fifty dollars (\$250) for each idle well that has been idle for 10 years or longer, but less than 15 years.

(C) Five hundred dollars (\$500) for each idle well that has been idle for 15 years or longer.

(2) Provide an escrow account in a federally insured bank that does business in, and has an office in, the State of California, by depositing the amount of five thousand dollars (\$5,000) for each idle well, in the following manner:

(A) The escrow account shall be accessible only by the supervisor and the money shall be retained in the escrow account exclusively for use by the supervisor for plugging and abandoning the operator's idle wells that become deserted pursuant to Section 3237.

(B) The money in the escrow account may be released only by the supervisor and only in amounts covering any idle well that has properly been plugged and abandoned, returned to production or injection or converted to an active observation well, if that money remaining in the escrow account is sufficient to fully fund the required deposits for all of the operator's remaining idle wells.

(C) The required deposit for each idle well shall be funded completely within 10 years of the date the well becomes idle, or 10 years from January 1, 1999, for any well that is idle as of January 1, 1999.

(D) The operator shall fund the escrow account at the rate of at least five hundred dollars (\$500) per well per year.

(E) Failure of an operator in any year to provide the minimum funding for any idle well shall result in the institution of the annual fees required by paragraph (1) for that idle well, and all money already on deposit for that idle well shall be treated as previously paid annual fees and shall be deposited into the Hazardous and Idle-Deserted Well Abatement Fund specified in subdivision (b) for expenditure pursuant to that subdivision.

(3) File with the supervisor an indemnity bond that provides the sum of five thousand dollars (\$5,000) for each idle well. The bond shall be subject to the conditions provided in Section 3204.

(4) On or before July 1, 1999, file a plan with the supervisor to provide for the management and elimination of all long-term idle wells not covered under paragraph (1), (2), or (3).

(A) For the purposes of the plan required by this paragraph, elimination of an idle well shall be accomplished when the well meets the requirements of Section 3208.

(B) A plan filed pursuant to this paragraph shall meet all of the following requirements and conditions:

(i) The plan shall cover a time period of no more than 10 years and may be renewed annually thereafter, subject to approval by the supervisor.

(ii) The plan shall be reviewed for performance annually by the supervisor, and be subject to amendment with the approval of the supervisor.

(iii) The required rate of long-term idle well elimination shall be based upon the number of idle wells under the control of an operator on January 1 of each year, as specified in clause IV. The supervisor may require additional well testing requirements as part of the plan.

(iv) The plan shall require that operators with 10 or fewer idle wells eliminate at least one long-term idle well every two years; operators with 11 to 20, inclusive, idle wells eliminate at least one long-term idle well each year; operators with 21 to 50, inclusive, idle wells eliminate at least two long-term idle wells each year; operators with 51 to 100, inclusive, idle wells eliminate at least five long-term idle wells each year; operators with 101 to 250, inclusive, idle wells eliminate at least 10 long-term wells each year; and operators with more than 250 idle wells eliminate at least 4 percent of their long-term idle wells each year.

(v) An operator who complies with the plan is exempt from any increased idle well bond or fee requirements.

(vi) An operator who fails to comply with the plan, as determined by the supervisor after the annual performance review, is not eligible to use the requirements of this paragraph, for purposes of compliance with this section, for any of its idle wells. That operator shall immediately provide one of the alternatives in paragraph (1), (2), or (3) for its idle wells and may not propose a new idle well plan for the next five years. An operator may appeal to the director pursuant to Article 6 (commencing with Section 3350) regarding the supervisor's rejection of a plan and plan amendments and the supervisor's determinations of the operator's failure to comply with a plan.

(b) All fees received under this section shall be deposited in the Hazardous and Idle-Deserted Well Abatement Fund, which is hereby created in the State Treasury. Notwithstanding Section 13340 of the Government Code, the moneys in the Hazardous and Idle-Deserted Well Abatement Fund are hereby continuously appropriated to the department for expenditure without regard to

fiscal year, to mitigate a hazardous or potentially hazardous condition by well plugging and abandonment.

(c) Failure to file, for any well, the bond or fee required under this section shall be conclusive evidence of desertion of the well, permitting the supervisor to order the well abandoned.

(d) Nothing in this section prohibits a local agency from collecting a fee for regulation of wells.

SEC. 4. Section 3208.1 of the Public Resources Code is amended to read:

3208.1. (a) To prevent, as far as possible, damage to life, health, and property, the supervisor or district deputy may order the reabandonment of any previously abandoned well if the supervisor or the district deputy has reason to question the integrity of the previous abandonment.

The operator responsible for plugging and abandoning deserted wells under Section 3237 shall be responsible for the reabandonment except in the following situations:

(1) The supervisor finds that the operator plugged and abandoned the well in conformity with the requirements of this division in effect at the time of the plugging and abandonment and that the well in its current condition presents no immediate danger to life, health, and property but requires additional work solely because the owner of the property on which the well is located proposes construction on the property that would prevent or impede access to the well for purposes of remedying a currently perceived future problem. In this situation, the owner of the property on which the well is located shall be responsible for the reabandonment.

(2) The supervisor finds that the operator plugged and abandoned the well in conformity with the requirements of this division in effect at the time of the plugging and abandonment and that construction over or near the well preventing or impeding access to it was begun on or after January 1, 1988, and the property owner, developer, or local agency permitting the construction failed either to obtain an opinion from the supervisor or district deputy as to whether the previously abandoned well is required to be reabandoned or to follow the advice of the supervisor or district deputy not to undertake the construction. In this situation, the owner of the property on which the well is located shall be responsible for the reabandonment.

(3) The supervisor finds that the operator plugged and abandoned the well in conformity with the requirements of this division in effect at the time of the plugging and abandonment and after that time someone other than the operator or an affiliate of the operator disturbed the integrity of the abandonment in the course of developing the property, and the supervisor is able to determine based on credible evidence, including circumstantial evidence, the party or parties responsible for disturbing the integrity of the abandonment. In this situation, the party or parties responsible for



disturbing the integrity of the abandonment shall be responsible for the reabandonment.

(b) Except for the situations listed in paragraphs (1), (2), and (3) of subdivision (a), nothing in this section precludes the application of Article 4.2 (commencing with Section 3250) when its application would be appropriate.

SEC. 5. Section 3219.5 is added to the Public Resources Code, to read:

3219.5. (a) On or before July 1, 2001, the Department of Conservation shall report to the Governor and the Legislature on options for ensuring the existence of blowout insurance for persons engaged in drilling or redrilling exploratory oil and gas wells in areas where abnormally high or unknown subsurface pressure gradients exist. The report shall consider all of the following:

(1) Types of insurance policies, which include control of well policies and policies that cover personal injury and property damage resulting from a catastrophic well blowout occurrence.

(2) Methods of setting insurance policy amounts.

(3) Forms of insurance, including third-party insurance, provision of an operator's proof of ability to respond in damages, a combination thereof, or other options.

(4) Areas of the state where abnormally high pressure gradients exist, or where insufficient data exists to draw conclusions regarding the subsurface pressure gradient.

(5) Any other factors the department deems appropriate to include in the report.

(b) The Department of Conservation shall consult with representatives of the oil industry and insurers in developing the report's recommendations.

SEC. 6. Section 3226 of the Public Resources Code is amended to read:

3226. Within 30 days after service of an order pursuant to Sections 3224 and 3225, or Section 3237, or if there has been an appeal from the order to the director, within 30 days after service of the decision of the director, or if a review has been taken of the order of the director, within 10 days after affirmance of the order, the owner or operator shall commence in good faith the work ordered and continue it until completion. If the work has not been commenced and continued to completion, the supervisor may appoint necessary agents to enter the premises and perform the work. An accurate account of the expenditures shall be kept. Any amount so expended shall constitute a lien against real or personal property of the operator pursuant to the provisions of Section 3423.

Notwithstanding any other provisions of Section 3224, 3225, or 3237, if the supervisor determines that an emergency exists, the supervisor may order or undertake the actions he or she deems necessary to protect life, health, property, or natural resources.



SEC. 7. Section 3236.5 of the Public Resources Code is amended to read:

3236.5. (a) Any person who violates this chapter or any regulation implementing this chapter is subject to a civil penalty not to exceed five thousand dollars (\$5,000) for each violation. Acts of God, and acts of vandalism beyond the reasonable control of the operator, shall not be considered a violation. The civil penalty shall be imposed by an order of the supervisor upon a determination that a violation has been committed by the person charged, following notice to the person and an opportunity to be heard. The notice shall be served by personal service or certified mail, and shall inform the alleged violator of the date, time, and place of the hearing, the activity that is alleged to be a violation, the statute or regulation violated, and the hearing and judicial review procedures. The notice shall be provided at least 30 days before the hearing. The hearing shall be held before the supervisor or the supervisor's designee in Sacramento or in the district in which the violation occurred. The hearing need not be conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. The imposition of a civil penalty under this section shall be in addition to any other penalty provided by law for the violation. When establishing the amount of the civil penalty pursuant to this section, the supervisor shall consider, in addition to other relevant circumstances, (1) the extent of harm caused by the violation, (2) the persistence of the violation, (3) the pervasiveness of the violation, and (4) the number of prior violations by the same violator.

(b) Notwithstanding any other provision of this chapter, an order of the supervisor imposing a civil penalty shall not be reviewable pursuant to Article 6 (commencing with Section 3350). A person upon whom a civil penalty is imposed by a final order of the supervisor may obtain judicial review of that final order by seeking a writ of mandate pursuant to Section 1094.5 of the Code of Civil Procedure within 30 days of the date of that final order. When the order of the supervisor has become final, and the penalty has not been paid, the supervisor may apply to the appropriate superior court for an order directing payment of the civil penalty. The supervisor may also seek from the court an order directing that production from the well operations that are the subject of the civil penalty order is discontinued until the violation has been remedied to the satisfaction of the supervisor, and the civil penalty has been paid.

(c) Any amount collected under this section shall be deposited in the General Fund.

SEC. 8. Section 3237 of the Public Resources Code is amended to read:



3237. (a) (1) The supervisor or district deputy may order the plugging and abandonment of any well that has been deserted whether or not any damage is occurring or threatened by reason of that deserted well. The supervisor or district deputy shall determine from credible evidence whether a well is deserted.

(2) For purposes of paragraph (1), “credible evidence” includes, but is not limited to, the operational history of the well, the response or lack of response of the operator to inquiries and requests from the supervisor or district deputy, the extent of compliance by the operator with the requirements of this chapter, and other actions of the operator with regard to the well.

(3) A rebuttable presumption of desertion arises in any of the following situations:

(A) If a well has not been completed to production or injection and drilling machinery have been removed from the well site for at least six months.

(B) If a well’s production or injection equipment has been removed from the well site for at least two years.

(C) If an operator has failed to comply with an order of the supervisor within the time provided by the order or has failed to challenge the order on a timely basis.

(D) If an operator fails to designate an agent as required by Section 3200.

(E) If a person who is to acquire a well that is subject to a purchase, transfer, assignment, conveyance, exchange, or other disposition fails to comply with Section 3202.

(F) If an operator has failed to maintain the access road to a well site passable to oilfield and emergency vehicles.

(4) The operator may rebut the presumptions of desertion set forth in paragraph (3) by demonstrating with credible evidence, compliance with the division and that the well has the potential for commercial production, including specific and detailed plans for future operations, and by providing a reasonable timetable for putting those plans into effect. The operator may rebut the presumption set forth in subparagraph (F) of paragraph (3) by repairing the access road.

(b) An order to plug and abandon a deserted well may be appealed to the director pursuant to the procedures specified in Article 6 (commencing with Section 3350).

(c) (1) The current operator, as determined by the records of the supervisor, of a deserted well that produced oil, gas, or other hydrocarbons or was used for injection is responsible for the proper plugging and abandonment of the well. If the supervisor determines that the current operator does not have the financial resources to fully cover the cost of plugging and abandoning the well, the immediately preceding operator shall be responsible for the cost of plugging and abandoning the well.

(2) The supervisor may continue to look seriatim to previous operators until an operator is found that the supervisor determines has the financial resources to cover the cost of plugging and abandoning the well. However, the supervisor may not hold an operator responsible that made a valid transfer of ownership of the well prior to January 1, 1996.

(3) For purposes of this subdivision, “operator” includes a mineral interest owner who shall be held jointly liable for the well if the mineral interest owner has or had leased or otherwise conveyed the working interest in the well to another person, if in the lease or other conveyance, the mineral interest owner retained a right to control the well operations that exceeds the scope of an interest customarily reserved in a lease or other conveyance in the event of a default.

(4) No prior operator shall be liable for any of the costs of plugging and abandoning a well by a subsequent operator if those costs are necessitated by the subsequent operator’s illegal operation of a well.

(5) If the supervisor is unable to determine that an operator that acquired ownership of a well after January 1, 1996, has the financial resources to fully cover the costs of plugging and abandonment, the supervisor may undertake plugging and abandonment pursuant to Article 4.2 (commencing with Section 3250).

SEC. 9. Section 3352 of the Public Resources Code is amended to read:

3352. Within 10 days from the date of the taking of the appeal, a minimum 20 days notice in writing shall be given to the appellant of the time and place of the hearing. If the director determines that there is an immediate threat to human health and safety or to the environment, the director may shorten the notice period to 10 days. For good cause, and if the director determines that there is not an immediate threat, the director may postpone the hearing, on the application of the appellant, the supervisor, or the district deputy, for a period not to exceed 30 days.

SEC. 10. Section 3744 of the Public Resources Code is amended to read:

3744. (a) Within 30 days from the date of service of an order made pursuant to Section 3743, the operator shall commence in good faith the work ordered and continue it until completion. If the work has not been commenced and continued to completion, the supervisor may appoint necessary agents to enter the premises and perform the work. An accurate account of the expenditures shall be kept. Any amount so expended constitutes a lien against the real or personal property of the operator upon which the work is done and the lien has the force, effect, and priority of a judgment lien pursuant to Section 3772.

(b) Notwithstanding Section 3741, 3743, or 3755, if the supervisor determines that an emergency exists, the supervisor may make formal or emergency orders or undertake any other action that the

supervisor determines to be necessary for the protection of life, health, property, or natural resources.

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